

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

KEVIN HAWKINS,

Plaintiff,

vs.

BENJAMIN B. WAGNER, United States
Attorney, et al.,

Defendants.

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CIVIL ACTION NO. 2:20-2549

ORDER FOR MORE DEFINITE STATEMENT

The plaintiff, Kevin Hawkins, has filed a civil rights complaint (Docket No. 1), seeking damages under 42 U.S.C. § 1983 against prosecutors, law enforcement agents, and other officials involved in a federal conviction that has been set aside. The case has been reassigned for all further proceedings to the undersigned (Docket No. 3). Hawkins represents himself in this case and he has been granted leave to proceed without prepayment of fees and costs (Docket No. 4). So that the court can properly evaluate the merits of this case as required under 28 U.S.C. § 1915(e)(2)(B), Hawkins is hereby **ORDERED** to submit a more definite statement of the facts involved in this action by filing a written response to the questions posed below within **thirty (30) days** of the date of this order:

QUESTIONS

1. You allege that your conviction in Crim. No. 2:10-CR-00458 was wrongful and resulted in your false imprisonment. Provide the date that the judgment of conviction was entered against you, the sentence you received, and a brief explanation of how the conviction was wrongfully entered against you.

2. Your complaint mentions Paul Yoshi Moore and Timothy Wayne, who are not listed as defendants in this civil action. As co-defendants in Crim. No. 2:10-CR-00458, briefly state what happened to the charges against Moore and Wayne (who appears to have been charged as Timothy Wayne Lee).
3. Were Moore and Wayne witnesses against you in Crim. No. 2:10-CR-00458? If they were, briefly summarize their testimony. If the testimony was false, explain how it was false.
4. You allege that you spent six years in prison as a result of your wrongful conviction in Crim. No. 2:10-CR-00458. Provide the date you were taken into custody following your conviction and the date you were released.
5. You allege that your trial ended in a hung jury and that the indictment against you was ultimately dismissed. Explain with specificity why the indictment was dismissed.
6. You allege that the proceedings against you were terminated in your favor “in a manner indicative of innocence.” Explain what you mean by this.
7. The complaint identifies the following individual defendants: (a) United States Attorney Benjamin B. Wagner; (b) United States Attorney Scott W. McGregor; (c) Executive Assistant United States Attorney Laura D. White; (c) Assistant United States Attorney Kyle F. Reardon; (d) Assistant United States Attorney Todd A. Pickles; (e) Assistant United States Attorney Mathew Craig Theusen; (f) Sacramento Police Department Detective Derek Stigerts; (g) FBI Special Agent Minerva Shelton; (h) Pre-Trial Services Officer Renee M. Basurto; (i) United States Appellate Chief Camil A. Skipper; (j) United States Probation Officer Nisha Modica; and (k) Sacramento County Sheriff Scott Jones (the “individual defendants”). Briefly describe the alleged personal involvement of each individual defendant in the conviction that was entered against you in Crim. No. 2:10-CR-

00458. List each individual defendant and explain what he or she did (or did not do) that resulted in your wrongful conviction and false imprisonment. Be specific as to personal involvement.

8. Your complaint lists “Does 1-100” as unidentified John or Jane Doe defendants. List each John or Jane Doe defendant by number (*e.g.*, John Doe #1, John Doe #2) and describe that person to the best of your ability. Include the person’s official title, if any, and briefly describe the alleged personal involvement of each individual John or Jane defendant in the conviction entered against you in Crim. No. 2:10-CR-00458. Explain what each John or Jane Doe defendant did (or did not do) that resulted in your wrongful conviction and false imprisonment. Be specific as to personal involvement.
9. You allege that the defendants conspired to obtain your wrongful conviction. Provide all facts that you have in support of your claim that the defendants were part of a conspiracy to violate your rights. List each individual defendant and explain with detail what he or she did as part of the conspiracy against you.
10. You allege that the defendants “fabricated evidence” against you. Describe with specificity the evidence was fabricated. List each individual defendant and explain with detail what he or she did to fabricate evidence.
11. You allege that the defendants “withheld exculpatory information” from the jury that created a false impression that you attempted to destroy “evidence that the defendants already had.” Describe with specificity the evidence that was withheld and explain how it was exculpatory. List each individual defendant and explain with detail what he or she did to withhold exculpatory information.
12. You allege that the defendants engaged in malicious prosecution. Briefly describe how the

defendants engaged in malicious prosecution in your case. List each individual defendant and explain what he or she did in connection with the malicious prosecution against you.

13. You allege that the defendants violated your right to due process by depriving you of your “constitutional right to a fair and speedy trial.” Briefly describe how the defendants violated your right to due process. List each individual defendant and explain with detail what he or she did to violate your right to due process.

14. You allege that the defendants violated your rights to (a) counsel of your choice; (b) remain silent and not incriminate himself; (c) and represent himself without counsel forced upon him. Briefly describe how the defendants violated each of these rights. List each individual defendant and explain with detail what he or she did to violate each of these rights.

15. You allege that the defendants used “unjustified violent tactics” in “an attempt” to coerce your confession. State whether or not you confessed to any of the charged offenses and explain how your confession was coerced. List each individual defendant and explain with detail what he or she did to coerce your confession and what tactics the defendant used.

16. You allege that the defendants violated your constitutional right to equal protection by “abusing minority criminal suspects in a manner calculated to withhold evidence from a jury and to coerce confessions and secure unjust convictions.” You also allege that the defendants’ actions were “motivated by racial animus” and “purposeful discrimination.” Identify your race. List each individual defendant and explain with detail what he or she did to violate your right to equal protection by discriminating against you with racial animus.

17. You allege that the defendants conspired and continue to conspire to deprive you of exculpatory materials that would have led to a speedier exoneration. Describe with

specificity the exculpatory materials that would have led to a speedier exoneration. List each individual defendant and explain with detail what he or she did as part of this conspiracy and also explain what, if anything, he or she is continuing to do to deprive you of these specific exculpatory materials.

18. You allege that some of the defendants violated your rights by failing to intervene and prevent unspecified misconduct. List each individual defendant who failed to intervene and explain with detail what he or she failed to do to prevent specific misconduct by another specific individual.

19. You allege that the defendants' actions caused severe emotional distress. Describe the severe emotional distress that you suffered.

20. Answer the following questions about your claim of severe emotional distress:

- a. What medical care did you receive, if any, for the emotional distress you suffered?
- b. Provide the dates for any medical care and briefly describe the treatment you received, including any medication.
- c. Briefly describe the nature of any other care that you have received as a result of the emotional distress that you suffered.

21. List all lawsuits you have filed in state and federal court. State whether any of these lawsuits involve the subject matter of your complaint.

INSTRUCTIONS

The plaintiff is admonished to heed the following instructions with care. The plaintiff's response is due **thirty (30) days** from the date of this order as shown below. The plaintiff is instructed to label his response "Plaintiff's More Definite Statement" and to include the correct Civil Action Number as shown above in the style of this case.

The plaintiff is directed to answer the foregoing questions to the best of his ability based on personal knowledge and the information available to him. He is further advised that legal research or review of records is not required. The plaintiff is instructed to submit his responses to the foregoing questions by copying each question as posed by the court and then typing or writing the answer as neatly as possible underneath each question in numbered paragraphs corresponding to the question being answered. The plaintiff must also include somewhere in his response the following affirmation: "I swear under penalty of perjury that these answers are true and correct to the best of my knowledge."

All discovery is stayed until further notice and no summons or service of process will issue until the court has completed an evaluation of the plaintiff's response to the foregoing questions. **The plaintiff's failure to comply as directed may result in the dismissal of this action for want of prosecution under Rule 41(b) of the Federal Rules of Civil Procedure without further notice.**

The Clerk will provide a copy of this order to the plaintiff.

SIGNED at Houston, Texas on _____ May 21 _____, 2021.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge